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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,118	05/10/2001	David S. Breed	ATI-204	5204

22846 7590 12/06/2001

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EXAMINER

ARTHUR, GERTRUDE

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 12/06/2001

#3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,118

Applicant(s)

BREED ET AL.

Examiner

Gertrude Arthur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: on pages 52-62, and 64-70 (tables) all chart, tables must be removed and be created in the drawing section. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-78 are rejected under 35 U.S.C. 102(b) as being anticipated by Corrado et al. (U.S. Patent No. 5,482,314).

As to claims 1, 28, 44, 67, 69, Corrado et al. disclose a vehicle system for determining the occupancy state of a seat in the vehicle and comprising a plurality of transducers (24, 26) as shown in Fig. 14 wherein each transducers providing data relating to the occupancy state of the seat. It also comprises at least one database and processor (74,77,82) as shown in Fig. 14 for receiving the data from the transducers and processing the data to obtain an output indicative of the current occupancy state of

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the seat, the processor comprises an algorithm created from a plurality of data sets each of the data sets representing a different occupancy state of the seat See Fig. 14 (ex: empty seat, child seat). The algorithm producing the output indicative of the current occupancy state of the seat upon inputting a data set representing the current occupancy state of the seat and being formed from data from the transducers (See abstract, lines 11-14).

As to claims 2-27, 29-43, 45-60, 68, 70-78, Corrado et al. disclose the algorithm is a pattern recognition algorithm (neural network) (See col. 6, lines 21-25) and inputs are combined in a microprocessor circuit by means of a sensor fusion algorithm to produce an output signal to the air bag controller (See abstract, lines 1-17) Corrado et al. disclose the databases and preprocessing the data and for having occupancy states of the seat (See col. 3, lines 31-36, 44-53; col. 7, lines 45-60; See Figs. 9a-9c, 15b, 21-23).

As to claims 31-44, 61-66, Corrado et al. disclose the occupancy of the seat using live human beings (See col. 10, lines 43-46). It further discloses the environmental conditions inside the vehicle (See col. 9, lines 20-45). The further limitations are disclosed by Corrado et al. (See col. 11, lines 34-52; col. 14, lines 22-67).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

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F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-78 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-56 of copending Application No. 09/382,406. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art at the time of the invention to have a neural network producing the output indicative of the current occupancy state of the seat upon inputting a data set representing the current occupancy state of the seat and being formed from data from at least some of the transducers since it would perform the same function of determining the occupancy state of a seat.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

Breed et al. (U.S. Patent No. 6,078,854) disclose an apparatus and method for adjusting a vehicle component.

Breed et al. (U.S. Patent No. 6,081,757) disclose a seated state detecting apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur whose telephone number is (703) 308-7564. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Gertrude Arthur
GERTRUDE ARTHUR
PATENT EXAMINER

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November 30, 2001